

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERTO ROJAS, by and through
GUARDIAN AD LITEM SERGIO
ROJAS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendant.

No. 2:21-cv-01086-DAD-AC (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 11)

Plaintiff Roberto Rojas is a former state prisoner proceeding by and through his appointed guardian ad litem with counsel in this civil rights action under U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 30, 2023, the assigned magistrate judge screened plaintiff's complaint and found that plaintiff had stated cognizable Eighth and Fourteenth Amendment deliberate indifference claims as to plaintiff's safety and serious medical needs against defendants Cary, Ng, Saso, Walik, and Does 11–50. (Doc. No. 11 at 3.) The magistrate judge additionally found that plaintiff adequately alleged supplemental state law claims under the Bane Act and for negligence against defendants Cary, Ng, Saso, Walik, the State of California, the California Department of

1 Corrections and Rehabilitation (“CDCR”), and Does 1–50. (*Id.*) However, the magistrate judge
 2 found that plaintiff failed to state any other cognizable claims against these defendants, or a
 3 cognizable claim against defendant California State Prison (“CSP”)-Sacramento. (*Id.* at 3–5.)
 4 Accordingly, on October 30, 2023, findings and recommendations were issued recommending
 5 that this action proceed only on the claims found to be cognizable in the screening order and that
 6 all other claims and defendants be dismissed from this action due to plaintiff’s failure to state a
 7 cognizable claim against them. (*Id.* at 5–6.) The pending findings and recommendations were
 8 served on plaintiff and contained notice that any objections thereto were to be filed within
 9 fourteen (14) days after service. (*Id.* at 6.) To date, no objections have been filed, and the time in
 10 which to do so has passed.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
 12 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
 13 findings and recommendations are supported by the record and proper analysis.

14 Accordingly,

- 15 1. The findings and recommendations issued on October 30, 2023 (Doc. No. 11) are
 16 adopted in full;
- 17 2. This action shall proceed on plaintiff’s Eighth and Fourteenth Amendment
 18 deliberate indifference claims as to plaintiff’s safety and serious medical needs
 19 against defendants Cary, Ng, Saso, Walik, and Does 11–50, as well as plaintiff’s
 20 supplemental state law claims under the Bane Act and for negligence against
 21 defendants Cary, Ng, Saso, Walik, the State of California, the CDCR, and Does 1–
 22 50;
- 23 3. All other claims brought by plaintiff in this action are dismissed;
- 24 4. Defendant CSP-Sacramento is dismissed as a defendant in this action;
- 25 5. The Clerk of the Court is directed to update the docket to reflect that defendant
 26 CSP-Sacramento has been terminated from this action; and

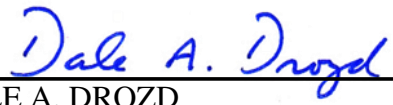
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1 6. This action is referred back to the assigned magistrate judge for further
2 proceedings consistent with this order.

3 IT IS SO ORDERED.

4 Dated: **February 8, 2024**



DALE A. DROZD
UNITED STATES DISTRICT JUDGE